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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ASHLEY JOHNIGAN,)	NO. CV 13-1465-AB (AS)
)	
Petitioner,)	ORDER ACCEPTING FINDINGS,
)	
v.)	CONCLUSIONS AND RECOMMENDATIONS
)	
KIMBERLY HUGHES, Acting Warden,)	OF UNITED STATES MAGISTRATE JUDGE
)	
Respondent.)	

Pursuant to 28 U.S.C. section 636, the Court has reviewed the Petition, all of the records herein and the attached Report and Recommendation of United States Magistrate Judge. After having made a *de novo* determination of the portions of the Report and Recommendation to which no objections were directed, the Court concurs with and accepts the findings and conclusions of the Magistrate Judge.

The Petition challenges the sufficiency of the evidence to support a finding of implied malice, an element of the second degree murder charge, and trial counsel's alleged ineffectiveness in advising Petitioner to reject a plea bargain involving a nine-

1 year sentence. The Magistrate Judge recommended that the Petition
2 be denied and dismissed with prejudice because the California
3 Supreme Court's rejection of these claims was not contrary to, or
4 an unreasonable application of, clearly established federal law,
5 and was not based on an unreasonable determination of the facts.
6 (Docket No. 28). With respect to Petitioner's ineffective
7 assistance of counsel claim, the California Supreme Court noted
8 that petitioner had provided no evidence to support her claim. Id.
9

10 The Court has carefully considered Petitioner's objections and
11 her submission, for the first time in the record, of declarations
12 from her mother and her husband in support of her claim of
13 ineffective assistance of counsel. A district court has discretion
14 to consider evidence presented for the first time in a party's
15 objection to the Magistrate Judge's Report. United States v.
16 Howell, 231 F.3d 615, 621 (9th Cir. 2000); see also Brown v. Roe,
17 279 F.3d 742, 744 (9th Cir. 2002). The Court finds the
18 declarations to be nothing more than after-the-fact self serving
19 statements that are not supported by the record and insufficient to
20 support Petitioner's allegations. As set forth in the Report,
21 which the Court has adopted, a Petitioner's own self-serving
22 statements are insufficient to establish her allegations. See
23 Womack v. Del Papa, 497 F.3d 998, 1004 (9th Cir. 2007) (rejecting
24 ineffective assistance of counsel claim when "[o]ther than Womack's
25 own self-serving statement, there is no evidence" to support the
26 claim).

